



169 Saxony Road
Suite 201
Encinitas, CA 92024

tel 760-942-8505
fax 760-942-8515
www.coastlawgroup.com

VIA EMAIL (KDorsey@waterboards.ca.gov)
February 28, 2005

Ms. Kelly Dorsey
Engineering Geologist
San Diego RWQCB
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Re: **TSMC: 40-0054.02:dorsk**
Tentative Addendum No. 5 to Cleanup and Abatement
Order No. 92-01, Mission Valley Terminals, San Diego

Dear Ms. Dorsey:

Coast Law Group LLP represents San Diego Baykeeper and the Surfrider Foundation, San Diego Chapter with regard to Clean Water Act compliance matters throughout San Diego County and the State of California. For approximately five years we have tracked and provided input on the Regional Board's efforts to require remediation of the Mission Valley Terminals. **We offer this letter in support of the proposed Tentative Addendum No.5 to Cleanup and Abatement Order No. 92-01.**

Though we support the current Tentative Addendum, we are concerned that remediation of the problem in the proposed time frame is insufficient. The original CAO was issued in January of 1992, which means we have now passed the 15th anniversary of regulating this substantial illegal discharge. Baykeeper and Surfrider believe that it is unfair to California taxpayers that so many resources would be allocated to a single discharge remediation effort, over so many years, without financial compensation to the State. Given the limited staffing and budget afforded the Regional Boards, coupled with the egregiousness of the longstanding violations here, it would be appropriate to issue a finding of Administrative Civil Liability against Kinder Morgan in conjunction with the Amended CAO.

Baykeeper and Surfrider recognize and appreciate efforts by the discharger to cooperate with Board staff on this matter. Nonetheless, there must be a penalty when the resources of State are compromised, and beneficial uses are destroyed. Anything less is an implicit acquiescence to the practice. The polluters must pay.

Sincerely,

Marco A. Gonzalez, Esq.
Coast Law Group, LLP

03/02/2005

gme



THE CITY OF SAN DIEGO
COUNCILMEMBER DONNA FRYE
SIXTH DISTRICT

March 2, 2005

Chair Minan and Boardmembers
Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

RE: Mission Valley Terminal Cleanup

Dear Chair Minan and Boardmembers,

Thank you for the opportunity to provide comments on this critical issue. I would like to echo the requests of the Office of the City Manager of the City of San Diego (outlined in their letter dated February 22, 2005) and support many aspects of the Tentative Agreement while strengthening the order in the following ways:

- 1) Restate the December 31, 2007 deadline for removing "measurable" NAPL in the Time Schedule Order;
- 2) Accelerate the cleanup of "residual" LNAPL to December 31, 2008;
- 3) Incorporate the aggressive technologies agreed to by the City and Kinder Morgan into the Tentative Order, including using enhanced methods for the SVE system, a pilot test of enhanced recovery methods of the dissolved phase of petroleum, the continued use of the air-sparging system to augment the SVE system, and investigating the utility lines that may have been impacted by the release.

Given that the original Orders called for the site to be cleaned up by the year 2000, I think it is more than reasonable to expedite the cleanup deadlines. I urge the Board to revise the Tentative Order to reflect the agreements between the parties and expedite cleanup of this site.

As we wrote to you with Mayor Murphy and Councilmember Scott Peters, the City is committed to cleaning up the Mission Valley Terminal. It is our goal to ensure that the San Diego River meets all of its beneficial uses and that our groundwater is protected and preserved so that it may one day be used as a source of drinking water.

Sincerely,

Donna Frye
Councilmember
Sixth District



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202 C STREET, MS 10A - SAN DIEGO, CALIFORNIA 92101
(619) 236-6616 - FAX (619) 236-7329

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